

Application No.: 10/522,565
Filing Date: June 20, 2005

REMARKS

Claims 1-24 and 26-28 are pending in this application. Of the above claims, 16-24, and 26-28 are withdrawn from consideration as directed to non-elected subject matter.

The Examiner has indicated claims 2, 5-9, 13, and 14 as withdrawn for not being not readable upon the claims of the art disclosed species. Applicants respectfully disagree with this withdrawal. Applicants respectfully traverse the withdrawal of claims 2, 5-9, 13, and 14 and request the rejoinder of these claims with claims 1, 3, 4, 10-12, and 15. Claims 2, 5-9, 13, and 14 specifically read on the preparation of the elected species of formula Ic (of claim 15) as the linker L is always present. Claim 2 describes the method for making the compound of claims 14 and 15. Claims 5-9 describe specific embodiments for the preparation of compounds described in method claims 14 and 15. Claim 14 is the generic formula of claim 15.

Claim amendments

Support for amendments to claim 1 is found in the description of page 5, lines 18-22; page 7, lines 20-22; page 8, lines 28-29; page 8 line 34 to page 9, line 5; page 9, lines 7-9; page 11, lines 1-3 and Example 3, scheme 3.

Support for the amendment to claim 2 is found in canceled claim 7.

Accordingly, the amendments do not constitute the addition of new matter. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 1, 3, 4, and 10-12 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This ground of rejection is addressed by amendment. Support for the amendments is discussed above. Reconsideration and withdrawal of the rejection is respectfully requested.

Application No.: 10/522,565
Filing Date: June 20, 2005

Rejection under 35 U.S.C. § 112, first paragraph – written description

Claims 1, 3, 4, and 10-12 are rejected under 35 U.S.C. § 112, first paragraph as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) had possession of the claimed invention at the time that the application was filed.

In response to the rejection, claim 1 has been amended to specify that the linker is a compound of Formula IV (line 1-5 of step b of claim 1) and the linker arm L has been defined in terms of R-X-Y (last 5 lines of claim 1). Support for the amendments is discussed above.

In view of Applicants' amendments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

Rejection under 35 U.S.C. § 102(b)

Claim 1, 3, 4, and 10-12 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Priebe, et al. BBRC 247: 859-863 (1998) and Nicolet, Science LXXI (1849):589-590 (1930).

As set forth in M.P.E.P. § 2131 "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." In the present case, Priebe, et al. do not describe all of the elements of the amended claims.

Priebe, et al disclose 14-daunorubicine-glutathione conjugate that is used as a research tool to study the function of the MRP-1 protein. Priebe, et al are completely silent on the preparation of anthracycline-peptide conjugates where the peptide has from 10 to 100 amino acids and where the compound of formula (IIa) consists of a mixture comprising R¹⁰ = Cl and R¹⁰ = Br. Priebe, et al. fail to give any information/details about the chemical synthesis of such conjugates (Priebe, et al. page 247, penultimate paragraph).

Accordingly, Priebe, et al. do not teach all of the limitations of the presently claimed invention.

In view of Applicants' amendments and arguments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

Application No.: 10/522,565
Filing Date: June 20, 2005

Allowable subject matter

The Examiner's indication of allowable subject matter for claim 15 is gratefully acknowledged.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Application No.: 10/522,565
Filing Date: June 20, 2005

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 9, 2008

By: Che Chereskin
Che Swyden Chereskin, Ph.D.
Registration No. 41,466
Agent of Record
Customer No. 20,995
(949) 721-6385

5473291
060408